

Department of Permits Approvals and Inspections
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 90478

Alan Salny
June Salny, trustee

4431 Alan Drive

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

This matter came before the Administrative Law Judge on April 5, 2011 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR). The Respondents were charged with violating § 409.8 of the BCZR, concerning the proper orientation of commercial lighting illuminating a parking facility.

On March 17, 2011, pursuant to § 3-6-205, Baltimore County Code, Inspector Chip Raynor issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2,000.00 (two thousand dollars).

The following persons appeared for the Hearing and testified: Steven Salny, represented by Leonard H. Pazulski, Esquire, Raymond Lathe, representing the neighborhood, Todd Broschort, neighbor, Robert David Bateman, neighbor, Charles Fair, Property Maintenance Manager for the Respondent and Chip Raynor, Baltimore County Code Enforcement Officer.

The case was presented by Code Inspector Chip Raynor, who testified that he issued a Correction Notice to the violator on February 10, 2011, charging a violation of B.C.Z.R. §409.8, concerning the alleged improper design of commercial lighting that was not directed away from public streets and private residences. On March 17, 2011, Mr. Raynor testified that he re-inspected the premises, and at that time issued a citation to the violator. Mr. Raynor explained that the local

community association had been complaining about the lighting situation at this apartment complex for quite some time, probably at least since November, 2010.

Thereafter, three neighboring residents (Raymond Lathe, Jr., Todd Broschort and Robert Batemen) were called as witnesses and each testified that the light spilling into their homes from the nearby apartment units was intense and unbearable. Indeed, Mr. Broschort testified that he had a newborn child, and to keep the room sufficiently dark for sleeping, he needed to install black window shades, and that otherwise he could read a newspaper in the dark with the amount of light that was coming into his home from the adjoining apartment complex.

Attorney Freeman, on behalf of the Respondent, called two witnesses, and the first was Steve Salny, who testified that he was a third generation owner of these apartments, which have been owned in the same family for more than 50 years. Mr. Salny estimated that it was approximately 200 feet from his apartment buildings where the lights are situated to the houses of the complaining neighbors. The witness testified that the apartment building had lights in the identical location for 20+ years, and that when those lights began to fail they were replaced, at a cost of approximately \$6,000.00. Mr. Salny testified that he replaced the lights because he was receiving numerous tenant complaints concerning safety and vandalism in the area, and he indicated that his tenants have been very pleased with the new lights which were installed on the premises. Mr. Salny also testified that he has received many complaints from the neighboring residents, and has attempted to direct the lighting fixtures downward, and indicated that he believed they were now aiming as far downward as the light fixture would permit.

The second witness called on behalf of the Respondent was Charles Fair, who is the property manager for the apartment complex. Mr. Fair testified that he attempted to aim the lights downward in response to the complaints of the neighboring residents, and he also believed that nothing further could be done in that regard. The witness testified that after he repositioned the lights to their current configuration, he positioned himself at nighttime near the fence on the property line (which abuts the adjoining neighbors' properties) and that in his opinion there was not a great deal of light reaching the homes. He conceded that the backyards of the homes were probably being illuminated, but he did not think that was the case with respect to the interior of the homes, although he conceded that he had not been inside any of the nearby residences.

Based on the testimony presented, I find that B.C.Z.R. §409.8 has been violated in these circumstances, given that it is readily apparent, both from the photographs submitted and the witness testimony, that the lights are in fact shining directly towards the adjoining homes. County regulations require that “any fixture used to illuminate any parking facility shall be so arranged as to reflect the light away from residential lots...” B.C.Z.R. §409.8.A3. I found the complaining witness to be credible, and each testified that their homes have been brightly illuminated by the recently installed lighting fixtures at the apartment complex, and in these circumstances it is clear that the lights are not arranged so as to reflect light away from these residential lots. Indeed, if anything, the light is directed towards those lots.

THEREFORE:

IT IS ORDERED by the Administrative Law Judge that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars).

IT IS FURTHER ORDERED that \$1,800.00 of the \$2,000.00 civil penalty be suspended, with an immediate \$200.00 fine imposed at this time. Mr. Raynor shall re-inspect the property on or about May 20, 2011 and, if the property is in compliance with the BCZR, the entire \$2,000.00 civil penalty will be abated.

IT IS FURTHER ORDERED that the remaining \$1,800.00 will be imposed if the property is not brought into compliance by May 20, 2011.

IT IS FURTHER ORDERED that if the property is not in compliance with the BCZR on May 20, 2011, the civil penalty shall be imposed and placed as a lien upon the property.

ORDERED this 7th day of April 2011

Signed: Original Signed 4/7/11
John E Beverungen
Administrative Law Judge

NOTICE TO RESPONDENT: The Respondent is advised that pursuant to §3-6-301(a) of the Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security in the amount of the penalty assessed.

JEB/jaf